

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
PECOS DIVISION**

**METRO EQUIPMENT & RENTAL CO.,
INC.,**

Plaintiff,

v.

**TSURUMI MANUFACTURING CO.,
LTD. and DAISHIN INDUSTRIES LTD.,**

Defendants.

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PE:21-CV-00030-DC-DF

**ORDER GRANTING DEFENDANT’S MOTION TO EXTEND
AND CLARIFYING EARLIER TEXT ORDER**

BEFORE THE COURT is Defendant Tsurumi Manufacturing Co., Ltd.’s (“Tsurumi”) Agreed Motion to Extend Deadline for Reply in Support of 12(b)(2) Motion (hereafter, “Motion to Extend”). (Doc. 26). This case is before the undersigned U.S. Magistrate Judge through a standing order of referral from the District Judge pursuant to 28 U.S.C. § 636 and Appendix C of the Local Rules for the Assignment of Duties to U.S. Magistrate Judges.

Plaintiff Metro Equipment & Rental Co., Inc. (“Metro Equipment”) brought this suit against Defendants Tsurumi and Daishin Industries Ltd. on May 5, 2021. (*See* Doc. 1). On November 23, 2021, Metro Equipment filed an Amended Complaint against all Defendants. (*See* Doc. 11). On January 11, 2022, Tsurumi filed a Motion to Dismiss Under FRCP 12(b)(2) (hereafter, “Tsurumi’s Motion to Dismiss”). (Doc. 18). Metro Equipment filed a response to Tsurumi’s Motion to Dismiss on February 1, 2022. (Doc. 24). Concurrently with this response, on February 1, 2022, Metro Equipment filed a Motion for Jurisdictional Discovery *if the Court Determines it Is Warranted* (hereafter, “Motion for Discovery”) (emphasis added). (Doc. 25). The Motion for Discovery requested jurisdictional discovery only in the event that “the Court decides it would like more evidence before deciding Tsurumi’s [M]otion to [D]ismiss.” *Id.* at 3. On February 2, 2022, the Court granted the Motion for Discovery by text order (hereafter, “February Text Order”), allowing for “oral

and written discovery of jurisdictional facts” as well as providing Metro Equipment the ability to “use the discovery that [it] served in Cause No. 2020-20371, 151st District Court, Harris County, Texas.” Text Order, Feb. 2, 2022.

On February 11, 2022, Tsurumi filed the Motion to Extend, requesting an extension of its deadline to file a Reply to Metro Equipment’s response to Tsurumi’s Motion to Dismiss. (Doc. 26). Metro Equipment filed a response to the Motion to Extend on February 14, 2022, claiming that, due to an apparent ambiguity in the February Text Order, the Court should “clarify its [February Text O]rder, address how that decision affects the current briefing, and provide additional guidance on the legal issues on which it would like a fuller record.” (Doc. 27 at 4). Also, on February 14, 2022, Tsurumi filed a Reply to this response, articulating a similar request for clarification of the Court’s February Text Order. (Doc. 28 at 2). Therefore, the active case management motion pending before the Court is Tsurumi’s Motion to Extend. (Doc. 26).

After due consideration of the Motion to Extend, regarding the agreed status as to the availability of an extension, the Court **GRANTS IN PART** the Motion to Extend. (Doc. 26). Specifically, the Court **ORDERS** that Tsurumi’s deadline to file a Reply to Metro Equipment’s response (Doc. 24) to Tsurumi’s Motion to Dismiss (Doc. 18) is extended to **March 2, 2022**.

It is further **ORDERED** that, after due consideration of the Court’s February Text Order and review of the request for clarification present in the Motion to Extend (Doc. 26), jurisdictional discovery relating to Tsurumi’s Motion to Dismiss (Doc. 18) is **not necessary**, and that the current record on Tsurumi’s Motion to Dismiss is sufficient to come to a decision on its merits. It is further **ORDERED** that this finding as to the Motion for Discovery **SUPERSEDES** the Court’s prior finding in the February Text Order. Text Order, Feb. 2, 2022.

It is so **ORDERED**.

SIGNED this 23rd day of February, 2022.



DAVID B. FANNIN
UNITED STATES MAGISTRATE JUDGE